

**Department of Workforce Development
Division of Workforce Solutions**

Financial Policy

Applies to: W-2 Agencies

Issue Date: 1/31/2005

Topic: W-2 and Related Programs Subcontracts

Purpose: This policy defines when a subcontract is required for a service included in the Wisconsin Works (W-2) and Related Programs Contract (W-2 Contract).

A. Definitions

1. Wisconsin Works (W-2) Agency - The agency that has entered into a Wisconsin Works (W-2) and Related Programs Contract with the State of Wisconsin Department of Workforce Development, Division of Workforce Solutions for a specified period of time. For purposes of this policy, the W-2 agency must be under contract for Wisconsin Works (W-2) and Related Programs.
2. Subcontract - A written document between the W-2 agency and some other entity for the provision of some or all of the services included in the Wisconsin Works (W-2) and Related Programs Contract for payment.
3. Entity - For the purposes of this policy, an entity is the individual or business firm that supplies the service(s) included in the Wisconsin Works (W-2) and Related Programs Contract.
4. Vendor - For the purposes of this policy, a vendor provides supplies, goods or non-programmatic services to operate the agency. These supplies, goods or non-programmatic services are available to the general public; examples are paper and pencils, a security deposit, car repairs, etc. An entity that provides programmatic services is not a vendor.
5. Subcontractor - An individual or business entity contracting to perform part or all of another's contract.
6. Memorandum of Understanding (MOU) - A written document outlining the terms of the agreement, transaction, or contract, between the parties.
7. Lead Agency - The agency within a W-2 consortium that is issued the Wisconsin Works (W-2) and Related Programs Contract and that is designated as the point of contact and accountability for the entire consortium.
8. Department's Policies and Procedures – the title used for the listing of the Department of Workforce Development's policies and procedures for W-2 and Related Programs.

B. General Requirements

The W-2 agency may subcontract for some or all of the services included in the W-2 Contract. In order for the W-2 agency to comply with the Department's Policies and Procedures to issue payment to an entity for any service included in the Contract, a subcontract, reviewed by the Department's Contract Manager, is required if the total amount of the service is \$10,000 or greater for a twelve (12) month period. The W-2 agency shall not make serial purchases to avoid this policy.

When the W-2 agency enters into a subcontract, the W-2 agency remains responsible for the provisions of all the W-2 and Related Programs services.

All of the rules of reimbursement regarding acceptable invoicing and payment practices apply to subcontracting. The Department may perform random audits and will scrutinize expenditures to make sure public funds are used only for W-2 purposes.

All subcontracts awarded by the W-2 agency must be consistent with the W-2 agency's obligations under the W-2 and Related Programs Contract. Subcontractors may also subcontract; the rules for subcontracts apply to all levels of subcontractor. The W-2 agency is responsible for all subcontract performance.

The W-2 agency is required to follow the procurement policies and procedures governing its agency, consistent with the Department's Policies and Procedures. The W-2 agency must retain documentation of all purchases and subcontracts for future monitoring or audit for a period of not less than three (3) years after the final payment under the W-2 Contract has been made.

To the extent the Wisconsin Department of Administration (DOA) makes procurement bulletins available to other units of government, the vendors listed on those bulletins may be used and accordingly the W-2 agency is not required to obtain bids.

The documentation for payment of services provided by another entity shall be regarded as a subcontract arrangement, regardless of the document's title.

C. When a Subcontract is Required

A subcontract is required when the entity asked to deliver services is doing what the W-2 agency is required to do under its W-2 Contract. The services that require a subcontract have some direct connection to the purpose of the W-2 program and involve education, training and other similar services.

For example, if the subcontractor provides training, something the W-2 agency is required to do by its W-2 Contract, then the entity providing that service for the W-2 agency must do so under a subcontract.

Another example, a subcontract is required if the W-2 agency asks the local technical college to provide a course specifically for W-2 and Related Programs participants.

The subcontract requirement also applies to payment arrangements between a consortium lead agency and the agency/agencies within the consortium.

D. When a Subcontract is Not Required

A subcontract is not required when the W-2 agency is purchasing items needed to operate its business or purchasing supplies, goods or non-programmatic services on behalf of the W-2 agency's participants. For example:

A W-2 agency is not required to issue a subcontract when purchasing car repairs, providing for taxi rides, or providing a participant's security deposit to a landlord.

A subcontract is not required if the local technical college provides a certain class to the general public and W-2 and Related Programs participants are also enrolled.

E. Model W-2 Subcontract

A subcontract must be a written document signed by the W-2 agency and the subcontract entity. The W-2 agency is required to either use the model W-2 subcontract (See Attachment A, Model W-2 Subcontract.) or a subcontract that contains all of the elements listed below. (See DWS Administrator's Memo 03-18 W-2 Purchase of Service/Subcontracting with Job Service for a model subcontract for Job Service.)

More information on the requirements listed below are found in the Wisconsin Works (W-2) and Related Programs Contract and/or its incorporated documents.

- A statement that the subcontractor will comply with the terms and conditions of the Wisconsin Works (W-2) and Related Programs Contract;
- A description of the services to be provided that are consistent with the agency's W-2 Plan, the budget for these services, including a per unit cost, the number of individuals to be served and the timeframe for the provision of the services;
- A description of the invoicing and payment procedures;
- A statement of compliance with the state's indemnity and insurance requirements, including workers compensation insurance;
- A statement of compliance with the Civil Rights Compliance and Non-discrimination/Affirmative Action requirements;

- A statement that the terms and conditions of the Wisconsin Works (W-2) and Related Programs Contract apply to all further subcontracting;
- A statement that faith-based contracting may not be prohibited, if further subcontracting is allowed by the subcontract;
- A description of the process for renegotiation, revision, extension, or termination;
- A description of the dispute resolution requirements;
- A description of record maintenance, availability, retention and confidentiality requirements;
- A description of all reporting requirements;
- A statement of compliance with the Department's Information Technology network security standards;
- A statement of compliance with the annual audit requirement;
- A description of the performance measures that will be used by the W-2 agency to monitor the subcontractor's performance; and
- All of the required forms must be signed, dated and attached.

F. Amendment or Extension of a Subcontract

1. Extension of a Subcontract

Subcontracts may be amended to extend the time period of the subcontract. If a subcontract period is extended, all of the original terms and conditions of the subcontract remain in effect during the extension, with two exceptions: the number of participants served and/or the budget also may be amended. The extension and changes, if any, to the number of participants served and/or the budget/costs must be agreed upon by the parties in writing. A model amendment for extending a subcontract is attached. (See Attachment B, Model Amendment.) The W-2 agency must submit the extension (and amendments to number served and/or budget, if any) to the DWD Contract Manager for review.

2. Amendment(s) of a Subcontract without Extension

Any terms and conditions of a subcontract may be amended without extending the time period of the subcontract if the amendment(s) are agreed upon by the parties in writing. A model amendment for amending a subcontract is attached. (See Attachment B, Model Amendment.) The W-2 agency must submit the amendment(s) to the DWD Contract Manager for review.

G. Procedures

1. The W-2 agency must submit a copy of all signed subcontracts, which have a material impact on the W-2 Program, to DWD's Contract Manager within fifteen (15) business days after the date of the final signature on the subcontract. For subcontracts for services such as building maintenance, cleaning, snow removal, and landscape maintenance, only a copy of the signature page, the nature of the product or service and the amount of the contract need to be submitted to the DWD Contract Manager. The DWD Contract Manager will acknowledge the receipt of the subcontract(s) within five (5) business days.
2. The DWD Contract Manager reviews the subcontract content to assure the subcontract meets the requirements set forth in this policy. This review will determine if all of the required conditions and components contained in the Model W-2 Subcontract have been met.

If the subcontract is incomplete or does not meet the requirements set forth in this policy, the Department's Contract Manager will return the subcontract to the W-2 agency noting the area(s) in which the subcontract is deficient. The W-2 agency must resubmit a copy of the signed revised completed subcontract to DWD's Contract Manager within twenty (20) business days of signing the revised completed subcontract.

3. The W-2 agency is responsible for all service delivery costs incurred before DWD's Contract Manager issues a notice of subcontract acceptance. If there are costs incurred prior to the signing of the complete subcontract, the W-2 agency must request, in writing, approval of the costs from the DWD Contract Manager. The W-2 agency must document the reason(s) why the costs were incurred including the amount of costs involved prior to signing of the subcontract in order to claim reimbursement.
4. If the W-2 agency plans to use a related party in the provision of services under the Wisconsin Works (W-2) and Related Programs Contract, the W-2 agency agrees to comply with the DWD's Policies and Procedures concerning related party transactions. A related party transaction is defined in the DWD's Wisconsin Works (W-2) Financial Management Manual (Allowable Costs section).
5. The W-2 agency shall not discriminate against an entity that is or applies to be a subcontractor on the basis that the entity has a religious character. The W-2

agency shall not require the faith-based entity to alter its definition, development, practice or expression of its religious beliefs, nor shall it require the entity to alter its internal governance or remove religious art or any other expression of its religious belief in order to enter into a subcontract with or be awarded a subcontract from the W-2 agency.

The W-2 agency shall not discriminate against any W-2 or Related Programs applicant or participant on the basis of religious or lack of religious belief. Therefore, if the W-2 agency subcontracts with a faith-based entity to provide any services to participants covered by the Wisconsin Works (W-2) and Related Programs Contract, the W-2 agency must make available within a reasonable time an alternate provider of the same services, worth the same value, to any participant who objects to the religious character of the organization or institution from which the participant would receive or is receiving the service.

6. The W-2 agency is encouraged to subcontract with State certified Minority Business Enterprises (MBEs).
7. The W-2 agency must routinely monitor the quality of service their participants receive under subcontracts.
8. The W-2 agency must provide a list of all current subcontracts to DWD's Contract Manager within ten (10) business days after each calendar quarter of the Wisconsin Works (W-2) and Related Programs Contract period. This listing must include all of the elements contained in the "W-2 Subcontract Log" form that is attached to this memo (See Attachment C, W-2 Subcontract Log Instructions).
9. The reviews by DWD of the W-2 agency may include how the W-2 agency monitors its subcontracts and subcontractors and the W-2 agency's receipt of annual audit reports from subcontractors.

H. Required Forms/Attachments

1. The W-2 agency must include the following forms in any subcontract using any W-2 funding and must obtain completed and signed copies from subcontractors.
 - a. Subcontractor Agency Identification Form (Attachment D);
 - b. Lobbying Disclosure [2 forms - (1) Certification Regarding Lobbying and (2) Disclosure of Lobbying Activities (with Continuation Sheet and Instructions)] <http://dwd.wisconsin.gov/dws/w2/rfp/forms.htm>;

- c. Affidavit of Fair Competition for Subcontractors (Attachment E);
- d. Debarment (Certification regarding Debarment and Suspension, <http://dwd.wisconsin.gov/dws/w2/rfp/forms.htm>); and
- e. Employee Bonus Form (Attachment F). The subcontractor must attach a copy of their policy on employee bonuses.